

**SUBSTITUTE FOR
HOUSE BILL NO. 4028**

A bill to establish procedures for municipalities to designate individual lots or structures as blighting; to purchase or condemn blighting property; to transfer blighting property for development; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. The legislature finds and declares that there
2 exists in this state a continuing need to strengthen and revital-
3 ize the economy of this state and its municipalities by encourag-
4 ing the efficient and expeditious return to productive use of
5 blighting property; and that the powers granted in this act
6 relating to the designation and transfer for development of
7 blighting property constitute the performance by this state or a
8 political subdivision of this state of essential public purposes
9 and functions.

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1 Sec. 2. As used in this act:

2 (a) "Blighting property" does not include structures or
3 lots, whether improved or unimproved, that are inherent to the
4 functioning of a farm or farm operation as those terms are
5 defined in section 2 of the Michigan right to farm act, 1981
6 PA 93, MCL 286.472. Blighting property does not include struc-
7 tures or lots, whether improved or unimproved, that are indus-
8 trial properties in an area zoned industrial and that are current
9 on tax obligations. Blighting property does not include track
10 belonging to a railroad company, right-of-way belonging to a
11 railroad company, rolling stock belonging to a railroad company,
12 or any other property necessarily used in operating a railroad in
13 this state belonging to a railroad company.

14 (b) "Blighting property" means any of the following struc-
15 tures or lots, whether improved or unimproved, that are likely to
16 have a negative financial impact on surrounding property values
17 or on the increase in value of those properties by being 1 or
18 more of the following:

19 (i) A structure or lot that, because of physical condition
20 or use, is regarded as a public nuisance at common law or has
21 been declared a public nuisance under the local housing, build-
22 ing, plumbing, fire, or other related codes.

23 (ii) A structure or lot that, because of physical condition,
24 use, or occupancy, is an attractive nuisance to children, includ-
25 ing, but not limited to, abandoned wells, shafts, basements, and
26 excavations, and unsafe fences or structures. A structure or lot
27 is not blighting property under this subparagraph because of an

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1 activity that is inherent to the functioning of a lawful
2 business.

3 (iii) A structure that, because it is dilapidated, unsani-
4 tary, unsafe, vermin infested, or lacking in facilities and
5 equipment required by the housing code of the municipality, has
6 been designated by the municipal agency responsible for enforce-
7 ment of the code as unfit for usage.

8 (iv) A structure or lot that is a fire hazard or is other-
9 wise dangerous to the safety of persons or property.

10 (v) A structure from which the utilities, plumbing, heating,
11 sewerage, or other facilities have been disconnected, destroyed,
12 removed, or rendered ineffective so that the property is unfit
13 for its intended use.

14 (vi) A structure or lot that, by reason of neglect or lack
15 of maintenance, has become a place for accumulation of trash or
16 debris, or a haven for rodents or other vermin.

17 (c) "Municipality" means a city, village, or township in
18 this state or a county described in section 3(1)(b).

19 (d) "Person" means an individual, partnership, association,
20 trust, or corporation, or any other legal entity or combination
21 of legal entities.

22 (e) "Taxing jurisdiction" means a jurisdiction, including,
23 but not limited to, this state, an agency of this state, a state
24 authority, an intergovernmental authority of this state, a school
25 district, or a municipality, that levies taxes under the general
26 property tax act, 1893 PA 206, MCL 211.1 to 211.157.

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1 Sec. 3. (1) Except as provided in subsection (3), a city,
2 village, or township may do 1 of the following:

3 (a) Designate a structure or lot within its jurisdiction as
4 blighting property and acquire title to the blighting property by
5 purchase, gift, exchange, or condemnation under the procedures
6 set forth in sections 4 through 7, except that a township may
7 take these actions within a village only upon adoption by a vil-
8 lage of a resolution under subdivision (c).

9 (b) Upon entering into a written agreement with the county
10 within which the city, village, or township is located, adopt a
11 resolution transferring the authority provided in subdivision (a)
12 to that county. The written agreement shall be entered into with
13 the county executive of a county that elects a county executive
14 or with the county board of commissioners of any other county.

15 (c) In the case of a village, adopt a resolution transfer-
16 ring the authority provided in subdivision (a) to the township
17 within which the village is located.

18 (2) Except as provided in subsection (3), upon adoption by a
19 city, village, or township of a resolution under
20 subsection (1)(b), a county may designate a structure or lot as
21 blighting property and acquire fee simple title in the blighting
22 property by purchase, gift, exchange, or condemnation under the
23 procedures set forth in sections 4 through 7.

24 (3) A municipality shall not designate a property as blight-
25 ing property if the property has been forfeited to a county trea-
26 surer under section 78g of the general property tax act, 1893
27 PA 206, MCL 211.78g, and remains subject to foreclosure under

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1 section 78k of the general property tax act, 1893 PA 206,

2 MCL 211.78k.

3 (4) A municipality shall not designate a property as blight-
4 ing property based solely on the presence of native grasses or
5 plants indigenous to Michigan that are planted or maintained as
6 part of a garden or designated wildlife area or for landscaping,
7 erosion control, or weed control purposes.

8 Sec. 4. (1) A municipality that proposes to designate a
9 property as blighting property under section 3 shall hold a hear-
10 ing on the designation. The hearing shall take place within 1 of
11 the following time frames:

12 (a) Except as otherwise provided in this subdivision, for a
13 property that is an owner-occupied residential dwelling, the
14 hearing shall take place not less than 42 days, and not more than
15 132 days, after the municipality provides written notice of the
16 hearing and the proposed designation as required by this
17 section. A municipality may hold the hearing more than 132 days
18 after it provides written notice only if an extension is
19 requested by a person with a legal interest in the property that
20 is contesting the blighting designation.

21 (b) Except as otherwise provided in this subdivision, for a
22 property that is not an owner-occupied residential dwelling, the
23 hearing shall take place not less than 30 days, and not more than
24 120 days, after the municipality provides written notice of the
25 hearing and the proposed designation as required by this
26 section. A municipality may hold the hearing more than 120 days
27 after it provides written notice only if an extension is

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1 requested by a person with a legal interest in the property that
2 is contesting the blighting designation.

3 (2) The written notice provided under this section shall
4 explain, in plain English, that the property is subject to desig-
5 nation as blighting property, and shall include all of the
6 following:

7 (a) The time, date, and location of the hearing.

8 (b) A description, including the street address, of the
9 property subject to designation as blighting property.

10 (c) An explanation of the reasons the municipality considers
11 the property to be blighting property.

12 (d) The name, address, and telephone number of the person to
13 whom communications about the hearing may be addressed.

14 (e) Names, addresses, and telephone numbers of state and
15 local agencies or other resources that may be available to assist
16 an occupant of the property to avoid loss of the property or to
17 obtain comparable safe, decent, and quality affordable housing.

18 (f) A description of the improvements that should be made to
19 the property before the hearing to avoid designation of the prop-
20 erty as blighting.

21 (3) The municipality shall perform a thorough title search
22 to identify all persons with a legal interest in the property.
23 The municipality shall take the following steps to provide notice
24 to any person with a legal interest in the property:

25 (a) Determine the address reasonably calculated to apprise
26 those persons with a legal interest in the property of the
27 pendency of the hearing under this section and send notice of the

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1 hearing to each person with a legal interest in the property by
2 certified mail, return receipt requested, not less than 30 days
3 before the hearing.

4 (b) Send a representative to the property to ascertain per-
5 sonally whether or not the property is occupied. If the property
6 appears to be occupied, the municipality shall do all of the
7 following:

8 (i) Make reasonable efforts in good faith personally to
9 serve upon a person occupying the property a copy of the written
10 notice described in subsection (2).

11 (ii) If a person occupying the property is personally
12 served, orally inform the occupant that the property will be des-
13 igned as blighting property and that the occupants may be
14 required to vacate and of agencies or other resources that may be
15 available to assist the occupant to avoid loss of the property or
16 to obtain comparable safe, decent, and quality affordable
17 housing.

18 (iii) If the occupant appears to lack the ability to under-
19 stand the advice given or is unwilling to cooperate, provide the
20 occupant with the names and telephone numbers of the agencies
21 that may be able to assist the occupant.

22 (iv) If an authorized representative of the municipality is
23 not able personally to meet with the occupant, place the written
24 notice at a conspicuous location on the property.

25 (c) Correct any deficiency that the municipality may know of
26 in the provision of the notice required by this section as soon

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1 as practicable before designating the property as blighting
2 property.

3 (d) If the municipality is unable to ascertain the address
4 reasonably calculated to apprise all persons with a legal inter-
5 est in the property of the pendency of the hearing, or is unable
6 to deliver notice to any occupant of the property, service of the
7 notice shall be made by publication. The notice shall be pub-
8 lished for 3 successive weeks, once each week, in a newspaper
9 published and circulated in the county in which the property is
10 located, if there is one. If no paper is published in that
11 county, publication shall be made in a newspaper published and
12 circulated in an adjoining county.

13 (4) Any notice provided under this section shall include an
14 explanation of any tax benefits or other incentives offered by
15 the municipality that may encourage the transfer of the blighting
16 property.

17 Sec. 5. (1) Upon the mailing of the notice under section 4,
18 the representative of the municipality responsible for the mail-
19 ing of the notice shall file proof of the notice provided with
20 the register of deeds of the county within which the property
21 subject to designation as blighting property is located. The
22 proof of notice shall be in the form of an affidavit and shall
23 include all of the following:

24 (a) A description of the content of the notice provided.

25 (b) The name or names of the person or persons to whom the
26 notice was addressed.

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1 (c) A statement that the property is subject to designation
2 as blighting property and subsequent transfer or condemnation.

3 (2) An affidavit recorded under subsection (1) creates a
4 rebuttable presumption in the courts of this state that any
5 person obtaining a legal interest in property subject to designa-
6 tion as blighting property following the recording of the affida-
7 vit by the representative of the municipality was properly noti-
8 fied that the property was subject to designation as blighting
9 property and of the consequences of that designation, including,
10 but not limited to, the condemnation of the property or the
11 transfer of the property to the municipality or another person.

12 (3) If a representative of a municipality records an affida-
13 vit under subsection (1) and the municipality subsequently does
14 not designate the property as blighting property, the municipal-
15 ity shall record as soon as practicable notice properly certified
16 by a representative of the municipality and in the form of an
17 affidavit that the property was not designated as blighting prop-
18 erty and that the municipality no longer seeks to obtain title to
19 the property under this act.

20 Sec. 6. (1) A person with a legal interest in the property
21 may contest the proposed designation of any property as blighting
22 property at the hearing held by the municipality under section 4
23 by doing 1 of the following:

24 (a) Appear at the hearing and show cause why the property
25 should not be designated as blighting property.

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1 (b) If incarcerated, impaired, or otherwise unable to attend
2 a public hearing, submit a written presentation to show cause why
3 the property should not be designated as blighting property.

4 (2) If a person with a legal interest in the property demon-
5 strates at the hearing that improvements to the property have
6 been made or are actively being made that will cause the property
7 no longer to meet the definition of blighting property, the
8 municipality shall delay the designation of the property as
9 blighting for 90 days. If at the end of that 90 days the munici-
10 pality finds that the property no longer meets the definition of
11 blighting property, the municipality shall issue a certificate
12 stating that the property is not blighting property.

13 (3) If after the notice and hearing required by this act the
14 municipality determines that the property is blighting property,
15 the municipality shall designate the property as blighting prop-
16 erty and provide public notice of the designation.

17 (4) A person with a legal interest in property that a munic-
18 ipality has designated as blighting property may appeal that
19 decision to the circuit court in the jurisdiction within which
20 the property is located within 28 days of the designation. The
21 circuit court shall review the municipal decision using the stan-
22 dard of review for administrative decisions that is set forth in
23 section 28 of article VI of the state constitution of 1963.

24 (5) If a person with a legal interest in a property that a
25 municipality designates as blighting appeals the municipal deci-
26 sion and the decision is reversed by a court of appropriate
27 jurisdiction and the court determines that the municipality was

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1 acting in bad faith, the court may award the successful appellant
2 the costs, including, but not limited to, attorney fees, actually
3 and reasonably incurred by the person in making the appeal.

4 Sec. 7. (1) A municipality may offer to purchase blighting
5 property at the fair market value or to acquire the property by
6 donation or exchange. If the offer is rejected, the municipality
7 may institute proceedings under the power of eminent domain under
8 the laws of this state or provisions of any local charter rela-
9 tive to condemnation.

10 (2) Except as otherwise provided in subsection (3), within
11 120 days after a municipality acquires title to a blighting prop-
12 erty or a condemnation award for the blighting property is
13 ordered under the uniform condemnation procedures act, 1980
14 PA 87, MCL 213.5 to 213.75, whichever is later, the municipality
15 shall either transfer the property for development or have
16 adopted a written development plan for the property.

17 (3) A municipality that under subsection (2) transfers title
18 to a blighting property that is classified as residential may
19 transfer the property for affordable low income housing to a
20 person that has experience with and is able to demonstrate finan-
21 cial capacity developing affordable low income housing. A munic-
22 ipality that does not transfer title to a blighting property that
23 is classified as residential under subsection (2) shall develop
24 the property in accordance with the written development plan
25 adopted under subsection (2).

26 (4) If a municipality fails to comply with subsection (2) or
27 (3), a person who lost or conveyed his or her legal interest in

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1 the property under this act may bring an action in the circuit
2 court to compel the municipality to convey that legal interest
3 back to that person. Upon a finding that the person bringing the
4 action has a plan likely to result in the development of that
5 property consistent with applicable law and that the municipality
6 has not complied with subsection (2) or (3), the court shall
7 enter an order restoring the person's legal interest in the
8 property. An order entered under this subsection shall require
9 all of the following:

10 (a) That all amounts paid in consideration for the property,
11 including any taxes extinguished under section 8, be repaid and,
12 if applicable, distributed to the appropriate taxing
13 jurisdiction.

14 (b) That all costs incurred by the municipality for demoli-
15 tion, environmental response activities, title clearance, and
16 site preparation be repaid.

17 (c) That the court retain jurisdiction to determine if the
18 development plan presented by the petitioner is implemented.

19 Sec. 8. (1) To encourage the donation or transfer of
20 blighting property, if a municipality designates the property as
21 blighting property, the municipality may accept from all persons
22 with a legal interest in the blighting property a deed conveying
23 those persons' interests in the blighting property in lieu of
24 foreclosure of the blighting property for delinquent property
25 taxes. A municipality shall not offer or accept a deed in lieu
26 of foreclosure if either of the following applies:

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1 (a) The blighting property has been forfeited to a county
2 treasurer under section 78g of the general property tax act, 1893
3 PA 206, MCL 211.78g, and remains subject to foreclosure under
4 section 78k of the general property tax act, 1893 PA 206,
5 MCL 211.78k.

6 (b) The blighting property has been foreclosed under section
7 78k of the general property tax act, 1893 PA 206, MCL 211.78k,
8 and has not been transferred by the foreclosing governmental unit
9 under section 78m of the general property tax act, 1893 PA 206,
10 MCL 211.78m.

11 (2) If, under subsection (1), the municipality accepts a
12 deed in lieu of foreclosure, all of the following shall occur:

13 (a) Any unpaid taxes levied under the general property tax
14 act, 1893 PA 206, MCL 211.1 to 211.157, are extinguished.

15 (b) All liens against the property, except future install-
16 ments of special assessments and liens recorded by this state
17 pursuant to the natural resources and environmental protection
18 act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

19 (c) All existing recorded and unrecorded interests in that
20 property are extinguished, except a visible or recorded easement
21 or right-of-way, private deed restriction, or restriction imposed
22 under the natural resources and environmental protection act,
23 1994 PA 451, MCL 324.101 to 324.90106.

24 (3) Not less than 30 days prior to acceptance of a deed in
25 lieu of foreclosure under this section, a municipality shall
26 inform each taxing jurisdiction that has levied taxes on the
27 blighting property under the general property tax act, 1893

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1 PA 206, MCL 211.1 to 211.157. Each taxing jurisdiction shall be
2 afforded the opportunity to inform the municipality of the reve-
3 nue impact of the issuance of a deed in lieu of foreclosure and
4 to show cause why the municipality should not accept a deed in
5 lieu of foreclosure.

6 (4) A municipality shall record any deed in lieu of foreclo-
7 sure in the office of the register of deeds in the county within
8 which the property is located and pay any applicable recording
9 costs.

10 (5) A municipality shall forward a copy of a deed in lieu of
11 foreclosure recorded under subsection (4) to the treasurer of the
12 city, village, or township, and to the treasurer of the county,
13 within which the property is located.

14 (6) To encourage the donation or transfer of blighting prop-
15 erty, a municipality may forgive fines levied by the municipality
16 against the property or fines relating to the property levied
17 against a person with a legal interest in the property.

18 Sec. 9. (1) A municipality may transfer for development
19 blighting property acquired under this act for reasonable and
20 valuable consideration. A municipality may transfer the blight-
21 ing property after the transferee presents all of the following:

22 (a) A development plan for the property.

23 (b) Guarantees of the transferee's financial ability to
24 implement the development plan for the blighting property.

25 (2) If property obtained by a municipality under this act is
26 subsequently sold for an amount in excess of any costs incurred
27 by the municipality relating to demolition, renovation,

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1 improvements, or infrastructure development, the excess amount
2 shall be returned on a pro rata basis to any taxing jurisdiction
3 affected by the extinguishment of taxes under section 8 as a
4 result of the designation of the property as blighting property
5 to the extent necessary to offset the extinguishment of taxes
6 under section 8. Upon the request of any taxing jurisdiction in
7 which the blighting property is located, the municipality shall
8 provide to the requesting taxing jurisdiction cost information
9 regarding any subsequent sale or transfer of the blighting
10 property.

11 Sec. 10. The powers granted in this act are in addition to
12 powers granted to municipalities under the statutes and local
13 charters. Nothing contained in this act shall be construed to
14 amend or repeal any of the provisions of 1933 (Ex Sess) PA 18,
15 MCL 125.651 to 125.709c, or of 1945 PA 344, MCL 125.71 to
16 125.84.

17 Enacting section 1. This act is repealed 5 years after the
18 effective date of this act.